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SPRINGFIELD

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FILE NO. S-1400

**REAL ESTATE:
Subdivision Plats**

**Honorable Stephen Landuyt
State's Attorney
Henderson County
Oquawka, Illinois 61469**

Dear Mr. Landuyt:

I have your letter wherein you ask the following question:

"May a county board amend its subdivision ordinance so as to require that street improvements must be completed and accepted according to specific standards before the approval of a subdivision plat and recording of said subdivision plat."

For the reasons hereinafter stated, it is my opinion that a non-home rule county has no authority to condition its approval of a subdivision plat on the completion of street improvements, according to specific standards, and acceptance

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by the county of such improvements.

Section 25.09 of "AN ACT to revise the law in relation to counties" (Ill. Rev. Stat. 1977, ch. 34, par. 414) gives a county the power:

"To prescribe by resolution, reasonable rules and regulations governing the location, width and course of streets, highways and storm or floodwater runoff channels and basins, and the provision of necessary public grounds for schools, parks or playgrounds, in any map, plat, or subdivision of any block, lot or sub-lot or any part thereof or any piece or parcel of land, not being within any city, village or incorporated town, * * * and to provide by resolution that the map, plat or subdivision shall be submitted to the county board or to some officer to be designated by the county board for their or his approval. The county board shall have a qualified engineer make an estimate of the probable expenditures necessary to enable any person to conform with the standards of construction established by the board pursuant to the provisions of this Section. Each person who seeks the county board's approval of a map, plat or subdivision shall post a good and sufficient bond with the county clerk, in a penal sum sufficient to cover the estimate of expenditures made by the estimating engineer. The bond shall be conditioned upon faithful adherence to the rules and regulations of the county board promulgated pursuant to the authorization granted to it by this Section. And in such cases no such map, plat or subdivision shall be entitled to record in the proper county or have any validity until it has been so approved.

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Thus, a county is authorized to condition approval of a subdivision plat upon compliance with its reasonable rules and regulations, and to require a bond conditioned upon faithful

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adherence to such rules and regulations. It is not, however, given specific authority to condition approval of a subdivision plat upon the proper completion of the street improvements required by its rules and regulations.

The purpose of the provisions of "AN ACT to revise the law in relation to plats" (Ill. Rev. Stat. 1977, ch. 109, par. 1 et seq.) is to require the submission of plats to governmental approval to insure that adequate provision has been made for streets, alleys, parks and other public facilities indispensable to the particular community affected. (Gricius v. Lambert (1972), 7 Ill. App. 3d 716, 720; Weber v. Village of Skokie (1968), 92 Ill. App. 2d 355, 360.) A plat by its very nature precedes improvement of the affected land. A county's interest in insuring that a subdivider complies with an approved plat is protected by the bond which is posted by the person seeking approval of the plat. The county has no statutory authority to withhold, until completion of street improvements, approval of a subdivision plat which complies on its face with pertinent rules and regulations.

Very truly yours,

A T T O R N E Y G E N E R A L